(1)

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. No. 4073 Of 2005.

PETITIONERS :-
JUDGMENT DEBTORS

1. Sukhlal Patel, son of Late Shri Shivlal Patel, aged about 59 years, resident of Santoshi Ward, Jagdalpur (C.G.),
2. Sukal Ram Patel, Son of Late Shri Shivlal Patel, aged about 47 years, resident of Singarbhat, Kanker, District Kanker (M.P.) (now Chhattisgarh),
3. Sukalu Ram, son of Late Shivlal Patel, aged about 55 years, resident of Gram Hatkongara, Tahsil Kanker, District Kanker (Chhattisgarh),
4. Dhukhuram, son of Late Shivlal Patel, aged about 67 years, resident of Singarbhat, Kanker, District Kanker (Chhattisgarh),
5. Smt. Sushila Bai (wrongly typed as Sushilal Bai in Civil Revision), widow of Sukhu Ram, aged about 60 years, resident of Singarbhat, Kanker, District Kanker (Chhattisgarh).

P.R. No. 4169/05 Gupta
Presented on 18/8/05
Dated

V E R S U S

RESPONDENT :-
DECREE HOLDER

Shri Mahendra Kumar Golcha, son of Late Shri Jeevanlal Golcha, Rajapur, Kanker, District Kanker (Chhattisgarh).

PETITION UNDER ARTICLE 227 OF CONSTITUTION OF INDIA

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP 4073/05 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

05.9.2005

Shri H.B. Agarwal, Sr. Advocate with Shri J.K. Gupta, Advocate for the petitioners.

Shri Parag Kotecha, counsel for the Respondents on caveat.

By this writ petition under Article 227 of the Constitution of India the petitioners have questioned the legality, propriety and correctness of order dated 23.6.1998 passed by learned Civil Judge, Class-I, Kanker in Execution Case No.23A/81 whereby learned Civil Judge has rejected the application filed by the petitioners herein under Section 151 of the Code of Civil Procedure.

I have heard learned counsel for the parties.

Perusal of application shows that decree on the basis of which execution has been filed has already been set-aside by the Joint Registrar, Co-operative, therefore, the execution should be rejected on the ground that execution stands terminated and does not lie. Whereas, learned counsel for the respondent submitted that the order of Joint Registrar on the basis of which this application has been filed has already been set aside by the Co-operative Tribunal on 2.3.2001 and thereby the decree passed in favour of the respondent by the Civil Court stands revived and execution of same has been filed.

I have also perused the impugned order passed by learned Civil Judge in which he has mentioned that the execution has been filed after ~~executing~~ the decree passed by the Civil Court. Even though it has been

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	mentioned in the order that the order of Joint Registrar dated 3.9.1992 does not affect the decree of civil court, but as has been mentioned above that after filing of this application the basis of this application stands terminated on the ground that the order of Joint Registrar has been reversed by the Co-operative Tribunal, therefore, I do not find any illegality or infirmity in the order impugned and the petitioners have not been able to make out a case for interference by this Court under Article 227 of the Constitution of India, same is liable to be dismissed and it is accordingly, dismissed at the admission stage itself. However, learned counsel for the petitioners submitted that order of tribunal has already been challenged before this Court in a writ jurisdiction in which this Court has granted stay, therefore, the respondent is not entitled for execution of decree. That is separate matter from this case, if any stay is granted by this Court in any writ petition then that is for the executing Court. to consider for leave Consequently, M.(W.)P. No.3348/05 and I.A. Nos.7510/05 &7511/05 also stand dismissed. **Sd/-** **L.C. Bhadoo** **Judge**	

Soshank

06